REMARKS

Claims 1-10, 12-23, and 25-36 are pending, with claims 1 and 14 being written in independent form. Claim 37 is cancelled in this paper, and no claims are added or amended.

Although the previous rejections under Section 103 have been overcome, in the Office Action the Examiner renewed his double-patenting rejection of all pending claims. Specifically, claims 1-10, 12-23, and 25-37 were rejected under the judicially-created doctrine of "obviousness-type" double patenting with respect to claims 1-40 of U.S. Pat. No. 6,996,775 ("'775 patent"), claims 1-24 of U.S. Pat. No. 6,943,707 ("'707 patent"), and claims 1-30 of U.S. Pat. No. 6,490,580 ("'580 patent"). In the Office Action, and in the telephone interview of May 18, 2009, the Examiner indicated that claims 1-10, 12-23, and 25-37 would be allowable upon filing of a suitable terminal disclaimer to overcome the double patenting rejection. However, upon further evaluation, Applicants have learned that the pending application and the issued '580 patent are not commonly owned as required by 37 CFR 1.321. Therefore, in good faith it is not possible for counsel to execute a terminal disclaimer.

Nevertheless, in review of the claims in further detail, a terminal disclaimer should not be required because the pending claims are patentably distinct from the issued claims of the '775, '707, and '580 patents. Moreover, the '775, '707, and '580 patents are not prior art at least because they share a common priority date with the instant application. Because the pending claims are patentably distinct over the '775, '707, and '580 patents, no terminal disclaimer is required in the instant Application. Accordingly, all claims are in immediate condition for allowance and should be passed on to issue.

The alleged double patenting rejections should be withdrawn at least because the Examiner has not met his burden of explaining why the claim recitations of pending claims in the instant application are not patentably distinct over the claims in the issued '775, '707, and '580 patents. Here, the Examiner has offered only an unexplained conclusion, without providing any guidance to Applicants with regard to what potential issues the Examiner has identified. (Office Action, page 3.)

Further, the alleged double patenting rejections should be withdrawn because the pending claims recite subject matter that is patentably distinct over the '775, '707, and '580 patents. Specifically, no claim of the '775, '707, or '580 patent recites or renders obvious "(a) in response to a signal of interest at a particular time during the temporal document, identifying a temporal range of the temporal document for which related documents are to be found" as recited in the context of independent claims 1 and 14. (Emphasis added.) In contrast, each independent claim in the '580 patent and the '707 patent recites in part "(a) in response to a signal of interest at a particular time during the temporal document, identifying a portion of the temporal document for which related documents are to be found," while the independent claims of the '775 patent each recite in part "(a) in response to receiving a signal of interest at a particular time during the temporal document, identifying a portion of the temporal document for which related documents are to be found." (Emphasis added.) Indeed, "a temporal range of the temporal document" is simply different from a "portion of the temporal document." (Emphasis added.)

Moreover, not only do the '775, '707, and '580 patents fail to recite or render obvious "identifying a temporal range of the temporal document," but in addition, the issued claims of the '775, '707, and '580 patents do not recite obvious variations of the following recitation recited in the context of each of the pending claims:

> wherein the related documents are selected from a collection of documents according to scores associated with the documents, said scores for each document based on a summation of term scores for at least a subset of the terms of the selected text, the term score of a term is weighted according to a temporal position of the term within the temporal range

(Emphasis added.) In contrast to how "the term score of a term is weighted according to a temporal position of the term within the temporal range" as recited by the pending claims, the claims of each of the '775, '707, and '580 patents expressly recite in part "weighting each term in the text selected by a function W(t) according to the time t at which the text occurs relative to the time at which the signal of interest occurs." (Emphasis added.)

Clearly, the issued claims of the '775, '707, and '580 patents perform a "weighting" using a function "according to the time t at which the text occurs relative to the time at which the signal of interest occurs." (Emphasis added.) However, the pending claims perform no such weighting, and in fact do not recite a weighting "relative to the time at which the signal of interest occurs" at all. Instead, the pending claims recite that a "weighting" is performed "according to a temporal position of the term within the temporal range." (Emphasis added.) Further, the issued claims perform no such "weighting" "according to a temporal position of the term within the temporal range."

These differences in how the "weighting" is performed as recited in the pending claims indicate a completely different approach compared to the weighting as recited in the context of the claims in the issued '775, '707, and '580 patents. (Emphasis added.) Significantly, a weighting performed "according to a temporal position of the term within the temporal range" is not an obvious variation of a weighting performed "relative to the time at which the signal of interest occurs." (Emphasis added.)

Accordingly, for at least these reasons, the Examiner's non-statutory double-patenting rejections of claims 1-10, 12-23, and 25-36 should be withdrawn. Because no other rejections of the presently pending claims remain, Applicants respectfully request for all pending claims to be immediately passed on to issue.

CONCLUSION

In view of the above amendment, Applicants believe the pending application is in condition for allowance. Reconsideration and allowance are respectfully requested.

It is believed that any fees associated with the filing of this paper are identified in an accompanying transmittal. However, if any additional fees are required, they may be charged to Deposit Account No. 18-0013, under Order No. 65632-0536. To the extent necessary, a petition for extension of time under 37 C.F.R. § 1.136 is hereby made, the fee for which should be charged against the aforementioned account.

Dated: August 3, 2009

Respectfully submitted,

Electronic signature: /Isaac T. Slutsky/
Isaac T. Slutsky
Registration No.: 64,620
Michael B. Stewart
Registration No.: 36,018
RADER, FISHMAN & GRAUER PLLC
Correspondence Customer Number: 25537
Attorneys for Applicant